



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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Philippe Jean Henri Berna
Mas Liotard - Les Brousses
F30410 Molières Sur Cèze
France

COPY MAILED

AUG 14 1997

**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of :
Philippe Jean Henri Berna :
Application No. 08/580,493 :
Deposited: December 29, 1995 : LETTER REGARDING
For: PROCESS FOR MAKING A VERSATILE : IMPROPER FILING
CLAMPING DEVICE DESIGNED TO HOLD :
OBJECTS WITHOUT DAMAGING THEM, SUCH :
A DEVICE AND ITS USE :

Receipt is acknowledged of the paper styled "Request For
Clarification...Filing Date" filed on March 20, 1997.

In response to applicant's request to "restart the period set by"
the Letter mailed January 21, 1997, applicant's attention is
directed to the Letter mailed January 21, 1997. As can be seen,
no period for response was set in the letter mailed January 21,
1997. The letter advised applicant that the present application
is improper and of applicant's recourse.

The requirement that a continuing application be filed before the
abandonment of the prior application is a requirement of law and,
as such, may not be waived by the Commissioner.

It is unfortunate that the papers which applicant mailed from
France on November 6, 1995, did not reach the U.S. Patent and
Trademark Office (USPTO) until December 1, 1995. However any
delay in the delivery of the papers to the USPTO was not the
fault of the USPTO. Further, the USPTO was under no obligation,
by law or regulation, to inform applicant prior to January 16,
1996 (the last day for filing a timely petition for a 3-month

extension of time), that the petition for a 1-month extension of time was untimely.

Of course, the USPTO should not have mailed a filing receipt for the present application. Since the USPTO did not inform the applicant of the improper status of the present application until more than 1-year after the actual abandonment date of the prior application, applicant was advised in the Letter mailed January 21, 1997, that he could request waiver of the 1-year time period contained in 37 CFR 1.137(b) by filing a petition under 37 CFR 1.183 along with any petition under 37 CFR 1.137(b). However, any petition under 37 CFR 1.183 and 1.137 must be promptly filed. Any further delay in filing the necessary petition to revive may result in the dismissal of the petition as untimely.

Any petitions under 37 CFR 1.137 and 1.183 must be promptly filed and should be addressed as follows:

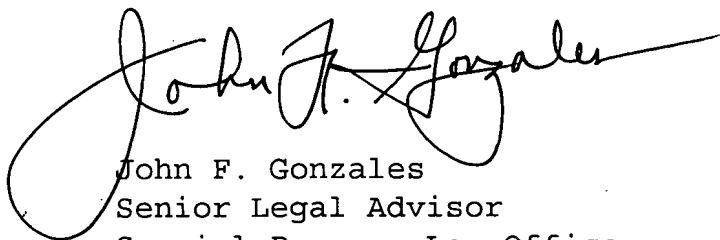
By mail: Assistant Commissioner for Patents
 Box DAC
 Washington, D.C. 20231

By FAX: (703) 308-6916
 Attn: Special Program Law Office

By hand: One Crystal Park, Suite 520
 2011 Crystal Drive
 Arlington, VA

The application will be retained in this office to await any petition to revive directed to prior application No. 08/321,589. Failure to seek revival of the prior application in a timely manner will result in the return of the present application to the examining group for unbundling the file of the prior application from the file of the present application, after which, the file of the present application will be returned to Application Processing Division for processing as an improper application under 37 CFR 1.62 (no filing date granted).

Telephone inquiries specific to this letter should be directed to the undersigned at (703) 305-9282.

A handwritten signature in black ink, reading "John F. Gonzales". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke extending to the right.

John F. Gonzales
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

JFG